

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ANTHONY AUSTINE UKOFIA,

Plaintiff,

Civil No. 09-184 (PJS/JJG)

v.

REPORT AND RECOMMENDATION

DEPARTMENT OF HOMELAND SECURITY,
TERRY LOUIE, JARED DRENGSON, AMY
ZASKE, BOARD OF IMMIGRATION
APPEALS, SHERBURNE COUNTY JAIL,
and RACHEL CANNINGS,

Defendants.

Plaintiff commenced this action on January 28, 2009, by filing a complaint and an application for leave to proceed in forma pauperis, ("IFP"). The Court examined the IFP application, and found that Plaintiff had not adequately demonstrated that he is financially eligible for IFP status. On February 11, 2009, the Court entered an order, (Docket No. 3), which denied Plaintiff's IFP application, without prejudice. The order directed Plaintiff to either file an amended IFP application, or else pay the full \$350.00 filing fee, within 20 days, (i.e., by no later than March 3, 2009). The order also expressly informed Plaintiff that if he did not file an amended IFP application, or pay the full filing fee, within the time allowed, the Court would recommend that this action be summarily dismissed pursuant to Fed. R. Civ. P. 41(b).

The deadline for complying with the Court's last order has now passed, and the Court now finds that Plaintiff has not filed an amended IFP application or paid any filing fee. In fact, Plaintiff has not submitted anything in connection with this case since he filed his

complaint. Therefore, it is now recommended, in accordance with the Court's prior order, that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: March 18, 2009

s/ Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **April 1, 2009**. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit.